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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/615,299	07/09/2003	Louise F. Stoll	STO-103-CIP-CON	7115
28970	7590	08/11/2004	EXAMINER	
SHAW PITTMAN . IP GROUP 1650 TYSONS BOULEVARD SUITE 1300 MCLEAN, VA 22102			WHITE, RODNEY BARNETT	
			ART UNIT	PAPER NUMBER
			3636	
DATE MAILED: 08/11/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/615,299	Applicant(s) STOLL, LOUISE F.	
	Examiner Rodney B. White	Art Unit 3636	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 May 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 25-43 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 25-43 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____ |

Detailed Action

Response to Amendment

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 25-43 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 8-21 of U.S. Patent No. 6,402,251 and claims 1-14 of U.S. Patent No. 6,616,242. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claimed subject matter is claimed in the aforementioned patents either in slightly different language or more detailed and more structure.

Claim Rejections - 35 USC § 102

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The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 25-43 are rejected under 35 U.S.C. 102(b) as being anticipated by Doering (U.S. Patent No. 3,604,750).

Doering teaches a vehicle passenger safety device for use on a vehicle seat that has a back-support and a seat belt, the device comprising a back-support portion 11,62, *a body strap assembly attached to a front part of the back-support portion wherein the body strap assembly 49, 76,77 is adapted to secure a passenger on the device, wherein the body strap assembly is adapted to secure a passenger on the device. wherein the body strap assembly comprises at least one horizontal strap adapted to secure the back-support portion on the vehicle seat back-support portion, wherein the at least horizontal strap is fixedly attached to the back support portion and adapted to attach the back-support portion to the vehicle seat back-support, and means for attaching the back-support portion to the back-support of the vehicle seat, means for receiving the seat belt to secure the device on the vehicle seat, the receiving means comprises one or more loops 47, 86,87 wherein the attaching means comprises a strap web, wherein the attaching means is located on a back part of the back-support portion at a position at the midpoint of the back-support portion or higher.*

Claims 25 are rejected under 35 U.S.C. 102(b) as being anticipated by Meyer(U.S. Patent No. 2,237,057).

Meyer teaches a vehicle passenger safety device for use on a vehicle seat that has a back-support and a seat belt, the device comprising a back-support portion, a *body strap assembly attached to a front part of the back-support portion wherein the body strap assembly is adapted to secure a passenger on the device, wherein the body strap assembly comprises at least one horizontal strap adapted to secure the back-support portion on the vehicle seat back-support portion, wherein the at least horizontal strap is fixedly attached to the back support portion and adapted to attach the back-support portion to the vehicle seat back-support, and means for attaching the back-support portion to the back-support of the vehicle seat.*

Claims 25-28, 31-36, and 38-43 are rejected under 35 U.S.C. 102(b) as being anticipated by Alexander et al (U.S. Patent No. 4,871,210).

Alexander et al teach a vehicle passenger safety device for use on a vehicle seat that has a back-support and a seat belt, the device comprising a back-support portion, a *body strap assembly attached to a front part of the back-support portion wherein the body strap assembly 24 is adapted to secure a passenger on the device, wherein the body strap assembly comprises at least one horizontal strap adapted to secure the back-support, , wherein the at least horizontal strap is fixedly attached to the back support portion and adapted to attach the back-support portion to the vehicle seat back-support and means 11 for attaching the back-support portion to the back-support of the*

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vehicle seat, means 42 for receiving the seat belt to secure the device on the vehicle seat, the receiving means comprises one or more loops formed by crotch strap 42 19 wherein the attaching means comprises one or more of a horizontal strap 19, wherein the attaching means is located on a back part of the back-support portion at a position at the midpoint of the back-support portion or higher, the strap assembly comprises a strap web

Remarks

Applicant's Representative really does not have any arguments. But Applicant's Representative states that he has amended the Independent claims 25, 33, and 40 to overcome the prior art of record. However, the claims do not appear to be patentably distinct over a few of those references, as noted in the above 102(b) rejections.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the

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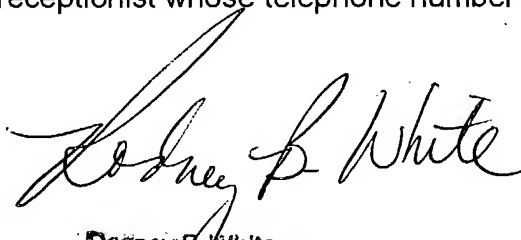
shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rodney B. White whose telephone number is (703) 308-2276.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Cuomo, can be reached on (703) 308-0827. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9326.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

Rodney B. White,
Patent Examiner
Art Unit 3636
August 9, 2004



Rodney B. White
Patent Examiner